

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2008-090358

02/02/2012

HON. CAREY SNYDER HYATT

CLERK OF THE COURT

C. Brown

Deputy

IN RE THE MATTER OF
JEFF COLLINS

JEFF COLLINS
974 E AQUARIUS PL
CHANDLER AZ 85249

AND

RICHELLE COLLINS

SONYA E UNDERWOOD

JUDGE BEENE

ORDER

This court is in receipt of a request for a Change of Judge for Cause, filed by Petitioner on January 26, 2012, which has recently been received by this division for disposition in accordance with A.R.S. § 12-409(A).

Pursuant to Rule 42(f)(2)(D), if a party makes proper service of an affidavit that meets the requirements of A.R.S. § 12-409(A) seeking to change the assigned judge for cause, the matter must be heard by another judge and the issue decided by a preponderance of the evidence. However, before the court sets this matter for an evidentiary hearing to resolve disputed issues on the alleged bias, prejudice, or interest of the assigned judge, the court must first determine whether or not the affidavit as a matter of law states grounds that, if proven, would justify disqualification under A.R.S. § 12-409. *See, e.g. Mervyn's v. Superior Court*, 179 Ariz. 359, 361, 879 P.2d 367, 369 (App. 1994).

In *Smith v. Smith*, 115 Ariz. 299, 564 P.2d 1266 (App. 1977), the Arizona Court of Appeals recognized that, "the bias and prejudice necessary to disqualify a judge must arise from an extra-

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judicial source and not from what the judge has done in his participation in the case. *United States v. Grinnel Corp.*, 384 U.S. 563, 86 S.Ct. 1698, 16 L.Ed 2d 778 (1966).” *Id.* At 303.

This court has reviewed all of the allegations made by Petitioner in support of removing the assigned judge, and finds that none of the allegations presented are supported by an affidavit alleging bias, prejudice or interest of the assigned judicial officer arising from an extra-judicial source. The allegations presented involve the judge’s participation in the case, and are insufficient as a matter of law to proceed with an evidentiary hearing on this matter. Accordingly,

IT IS ORDERED denying the request for Change of Judge for Cause, filed by Petitioner on January 26, 2012, and reassigning this case to Judge James P. Beene for all further proceedings.

IT IS FURTHER ORDERED signing this minute entry as a formal order of this Court pursuant to Rule 81, Arizona Rules of Family Law Procedure.

/s/ HONORABLE CAREY SNYDER HYATT

HONORABLE CAREY SNYDER HYATT
FAMILY COURT PRESIDING JUDGE

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.